

Message Text

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ACTION EUR-12

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NSAE-00 PA-02 SS-15 PRS-01 SP-02 USIA-15 TRSE-00
SAJ-01 NSC-05 EB-08 /086 W
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R 041854Z MAR 77
FM USMISSION NATO
TO SECSTATE WASHDC 2022
SECDEF WASHDC
INFO HQS DA WASHDC
CSAF WASHDC
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UNCLAS SECTION 1 OF 2 USNATO 1208

SECDEF FOR ODDR&E(IP), OASD(ISA), AND OASD(I&L). DA FOR
DAMA-PPI. CSAF FOR RDI. CNO FOR OP-098F.

E.O. 11652: NA
TAGS: NATO OCON MILI
SUBJECT: MEETING OF THE WORKING GROUP ON INDUSTRIAL PROPERTY
(AC/94)

REF: A. USNATO 0915 171920Z FEB 77 B. STATE 41607 242044Z
FEB 77 NOTAL. C. USNATO 0979 231843Z FEB 77

1. DURING THE WEEKONG MEETING OF AC/94, THE GROUP, INTER
ALIA, REEXAMINED ITS PROPOSED TERMS OF REFERENCE (TOR) (REF A)
AND AGREED, WITH MINOR MODIFICATIONS, TO ACCEPT THE CHANGES
PROPOSED BY THE US (REF B). THE AC/94-AGREED TOR FOLLOW
AT PARA 3 BELOW. COMMENT: PRIOR TO RECEIPT OF THE US-
PROPOSED CHANGES, THE ORIGINAL TOR HAD BEEN AGREED BY
NADREPS, SUBJECT TO CONFIRMATION BY THREE COUNTRIES (REF C).
WE ANTICIPATE THAT THE NEW VERSION OF THE TOR WILL AGAIN BE
A MATTER FOR NADREP DISCUSSION PRIOR TO THEIR SEEKING
NATIONAL APPROVAL. HOWEVER, BECAUSE AC/94 HAS AGREED TO
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THE US CHANGES, WE DO NOT EXPECT SIGNIFICANT OPPOSITION
TO THE FINAL VERSION. WE BELIEVE THE NEW TOR TO BE IN
FULL ACCORD WITH WASHINGTON GUIDANCE AND REQUIRE NO
FURTHER GUIDANCE ON THE TOR. END COMMENT.

2. THE GROUP ALSO PREPARED A PAPER OTLINING THE
APPROACH TO BE TAKEN WITH REGARD TO ITS LICENSING AND
COPRODUCTION STUDY, AND REQUESTING SPECIFIC ACTIONS BY
THE CNAD. PERTINENT EXTRACTS FROM THIS PAPER FOLLOW
AT PARA 4 BELOW. COMMENT: WE BELIEVE AC/94

DEMONSTRATED CONSIDERABLE INTEREST IN THE COPRODUCTION AND LICENSING STUDY AND HAS PREPARED A FEASIBLE APPROACH TO THE MAJOR TASK AT HAND. THE US REPS, GAPCYNISKI AND AHERN, PLAYED A VITAL PART IN GETTING AC/94 "FIRED UP" AND POINTED IN THE RIGHT DIRECTION, AND WILL REPORT PERSONALLY TO OASD(ISA) ON THE ADDITIONAL, BUT LESS SIGNIFICANT, ASPECTS OF THIS MEETING. END COMMENT.

3. BEGIN TEXT OF TOR AGREED BY AC/94:

I. THE NATO INTELLECTUAL PROPERTY GROUP (AC/94), WHICH IS WORKING UNDER THE AEGIS OF THE CONFERENCE OF NATIONAL ARMAMENTS DIRECTORS WILL DEAL WITH ALL INTELLECTUAL PROPERTY (NOTE: INTELLECTUAL PROPERTY REFERS TO CREATIONS OF THE HUMAN MIND.) QUESTIONS ARISING WITHIN THE DOMAIN OF ACTIVITIES OF THE ORGANISATION. IT WILL PROVIDE ADVICE AND ASSISTANCE TO ALL NATO MILITARY AND CIVILIAN BODIES, INCLUDING COMMITTEES AND WORKING GROUPS, ON INTELLECTUAL PROPERTY MATTERS CONCERNING RESEARCH, DEVELOPMENT, PRODUCTION AND LOGISTICS AND SIMILAR ASPECTS RELATED TO INTEROPERABILITY, INTERCHANGEABILITY AND STANDARDISATION. TO THIS END, THE GROUP, WHILE CONSIDERING THE IMPACT OF RELATED PROBLEMS WILL:

(I) SUPPORT, IMPLEMENT AND PROTECT THE GOALS OF NATO INsofar AS INTELLECTUAL PROPERTY MATTERS ARE CONCERNED;

(II) SAFEGUARD, TO THE GREATEST EXTENT POSSIBLE, THE UNCLASSIFIED

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INTERESTS OF THE OWNERS OF INTELLECTUAL PROPERTY;

(III) FACILITATE THE TRANSFER OF TECHNOLOGY TO THE FULLEST EXTENT REQUIRED;

(IV) FURTHER NATO INTEROPERABILITY AND STANDARDISATION BY EXAMINING CO-PRODUCTION AND LICENSING ARRANGEMENTS AND OTHER ASPECTS OF CO-OPERATIVE ARMS PROGRAMS (INTER ALIA, ROYALTY, RESEARCH AND DEVELOPMENT, SURCHARGES AND PROPRIETARY RIGHTS); THE GROUP WILL DO SO BY ESTABLISHING GENERAL PRINCIPLES AND BY SUGGESTING SOLUTIONS AS APPROPRIATE TO THE VARYING CIRCUMSTANCES. IN ADDITION, THE GROUP WILL TAKE THE INITIATIVE IN IDENTIFYING INTELLECTUAL PROPERTY PROBLEMS THAT COULD IMPAIR IMPLEMENTATION OF THE CHANGING OBJECTIVES OF NATO, BRING THESE PROBLEMS TO THE ATTENTION OF NATO AND PROVIDE SOLUTIONS OR APPROPRIATE GUIDANCE.

II. THE GROUP WILL BE COMPOSED PRIMARILY OF NATIONAL REPRESENTATIVES DESIGNATED IN THEIR CAPACITY AS EXPERTS IN INTELLECTUAL PROPERTY AND THE PROBLEMS ASSOCIATED THEREWITH ASSISTED, WHERE APPROPRIATE, ON AN AD HOC BASIS, BY EXPERTS IN OTHER FIELDS. SUCH EXPERTISE COULD BE HELPFUL IN DEVELOPING CASE STUDIES INVOLVING PARTICULAR CO-OPERATIVE ARMS PROGRAMS WHICH COULD SERVE AS THE BASIS FOR CONCLUSIONS AND RECOMMENDATIONS ON ALLIANCE CO-PRODUCTION, LICENSING AND OTHER RELATED POLICIES. END TEXT.

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4. BEGIN TEXT OF EXTRACTS FROM AC/94 AGREEMENT
CONCERNING ITS STUDY OF LICENSING AND COPRODUCTION:

2. AT ITS MEETING FROM 28TH FEB TO 4TH MARCH 1977,
THE AC/94 WORKING GROUP WAS ABLE TO CONSIDER THE ABOVE TASK.
IT WAS DECIDED THAT THIS TASK SHOULD BE CARRIED OUT BY AN
AD HOC STUDY GROUP OF AC/94 TO WHICH NATIONS COULD NOMINATE
REPRESENTATIVES.

3. WITH A PARTICULAR VIEW TO INTELLECTUAL PROPERTY,
WHICH CONSTITUTES THE BASIC TASK OF AC/94, THIS AD HOC STUDY
GROUP WILL PROCEED ALONG THE FOLLOWING LINES:

(A) REVIEW AND EXPAND, WHERE NECESSARY, THE EXISTING
INFORMATION ON TERMS AND NATIONAL POLICIES INCLUDING
RELEVANT INDUSTRIAL ARRANGEMENTS FOR LICENSING AND
CO-PRODUCTION AMONG NATO NATIONS, TAKING INTO ACCOUNT
PERTINENT AC/94 STUDIES;

(B) ESTABLISH OBJECTIVES AND/OR ASSESS TRENDS IN PROGRAMMES
OF INTERNATIONAL COLLABORATION IN ORDER TO ACHIEVE
OPTIMAL TERMS FOR LICENSING OR COLLABORATION LEADING
TO SUCCESSFUL CO-PRODUCTION PROGRAMMES AS A MEANS TO
NATO STANDARDISATION AND INTEROPERABILITY;
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(C) IN CASES WHERE THE NATIONS PARTICIPATING IN A GIVEN
COLLABORATIVE PROGRAMME HAVE SELECTED ONE AUTHORITY
FOR THE PLACING OF CONTRACTS UNDER THAT PROGRAMME,
CONSIDER THE EFFECTS OF THE APPLICABLE LAWS GOVERNING
LICENSING AND CO-PRODUCTION ARRANGEMENTS;
(D) IDENTIFY THOSE NATIONAL LAWS, PRACTICES AND PROCEDURES
FOR PROTECTING INTELLECTUAL PROPERTY THAT CREATE
OBSTACLES TO GREATER USE OF LICENSING AND CO-PRODUCTION;

(E) IDENTIFY SUCCESSFUL MEANS BY WHICH SUCH OBSTACLES HAVE BEEN OR COULD BE OVERCOME AND IDENTIFY POSSIBLE CHANGES IN LICENSING AND CO-PRODUCTION POLICIES AND THEIR OVERALL EFFECTS;
(F) TO THE EXTENT FEASIBLE, MAKE APPROPRIATE RECOMMENDATIONS BASED ON PARA (E) ABOVE;

4. AS A LONG-RANGE AND CONTINUING EFFORT, THE AC/94 GROUP ENVISAGES THE POSSIBILITY OF ESTABLISHING AGREED GUIDELINES AND DIRECTIONS OR FORMAL AGREEMENTS AMONG NATO NATIONS WHICH WOULD ENCOURAGE THE FLOW OF TECHNICAL INFORMATION AND THE NEGOTIATION OF LICENSING AND CO-PRODUCTION AGREEMENTS.

5. THE AC/94 WORKING GROUP REQUESTS THAT CNAD:

(A) ENDORSE THE ABOVE PROGRAMME OF WORK:

(B) MAKE A STRONG PLEA TO GOVERNMENTS THAT THEY PROVIDE THE NECESSARY MEMBERSHIP FOR THE CARRYING OUT OF THIS TASK WHICH, IN VIEW OF ITS IMPORTANCE, REQUIRES MORE FREQUENT MEETINGS AND REGULAR PARTICIPATION IN ITS AD HOC STUDY GROUP;

(C) INVITE NATIONS TO PROVIDE PROMPTLY AND FULLY, ANY ADDITIONAL INFORMATION REQUIRED ON THEIR NATIONAL LAWS, POLICIES AND PRACTICES REQUIRED FOR THE PERFORMANCE OF THIS TASK;

(D) NOTE THAT THIS IS A MAJOR TASK AND ALTHOUGH INTERIM REPORTS WILL BE GIVEN FROM TIME TO TIME, EARLY FINAL RESULTS CANNOT BE GUARANTEED.

END TEXT. STRAUSSZ-HUPE

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